

ORDINANCE NO. _____, SERIES 2007

AN ORDINANCE RE-ENACTING LOUISVILLE METRO CODE OF ORDINANCES (LMCO) SECTIONS 135.03, 135.04, 135.06, 135.44, 135.99(A) AND 135.99(C) REGARDING WEAPONS CONTROL AND REPEALING SECTIONS 135.01, 135.02, 135.20, 135.21, 135.22, 135.35, 135.36, 135.37, 135.38, 135.39, 135.40, 135.41, 135.42, 135.43, 135.99(B), AND 135.99(D).

Sponsored By: Councilmen Kramer, Downard and Blackwell

BE IT ORDAINED BY THE LEGISLATIVE COUNCIL OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT (THE COUNCIL) AS FOLLOWS:

SECTION I: Pursuant to the provisions of KRS 67C.115(2), LMCO Sections 135.03, 135.04, 135.06, 135.44, 135.99(A) and 135.99(C) are hereby reenacted, and Sections 135.01, 135.02, 135.20, 135.21, 135.22, 135.35, 135.36, 135.37, 135.38, 135.39, 135.40, 135.41, 135.42, 135.43, 135.99(B), and 135.99(D) are hereby repealed as follows:

~~WEAPONS~~

~~§ 135.01 CONFISCATION OF WEAPONS.~~

~~The Judge of the District Court shall by order confiscate all pistols, guns, and other deadly weapons found in the possession of persons arrested and convicted of a criminal act.~~

~~§ 135.02 DISPOSAL OF WEAPONS.~~

~~All pistols, guns, or other deadly weapons which are confiscated by order of the Judge of the District Court shall be delivered by the arresting officer of the person from whom the weapons are received to the officer in charge of the Scientific Crime and Detection Laboratory of the Police Division. The weapons~~

~~shall be kept by the Scientific Crime and Detection Laboratory for research and investigation.~~

§ 135.03 AIR GUNS.

It shall be unlawful within Jefferson County for any person to sell or give to any person under 18 years of age, or for any person under 18 years of age to possess, use, or discharge, any weapon from which a projectile, metal shot, or metal pellet is or may be propelled or discharged by compressed air or gas, commonly known as air rifles, air pistols, or BB guns. However, nothing contained in this section shall be construed as prohibiting any person under 18 years of age, when accompanied by his parent or guardian, from using or discharging any such weapon on any rifle range which is properly licensed and conducted and on which due provision has been made for the safety and protection of life and property.

§ 135.04 SALE OR RENTAL OF CONCEALABLE WEAPONS BY MERCHANT OR DEALER TO MINORS PROHIBITED.

(A) It shall be unlawful for any merchant or dealer in Jefferson County to sell, lend, rent, give, or otherwise transfer to any person under the age of 18 years any concealable firearm, any air gun, sword, cane sword, umbrella sword, switch-blade, dart, stiletto, gravity knife, or any knife other than an ordinary pocket knife. It shall be the duty of any merchant or dealer in Jefferson County to demand a picture identification sufficient to show proof of age of any customer seeking to purchase or rent any item listed above, if the customer appears to the merchant to be less than 22 years of age, and the sale of any said item by the

dealer or merchant to any customer who is unable or unwilling to present proper identification shall be a violation hereunder.

(B) It shall be unlawful for any person to give, lend, or otherwise transfer to any person under the age of 18 years any concealable firearms, air gun, sword, cane sword, umbrella sword, switch-blade, dart, stiletto, gravity knife, or any knife other than except where the relationship of parent and child, guardian and ward or adult instructor and pupil exists and whenever any such person does transfer any such weapon to person under the age of 18 years the adult shall take all reasonable precautions to assure that the child does not harm the person or property of another by the malicious, negligent, or otherwise tortuous use of the weapon.

(C) It shall be unlawful for any person under the age of 18 years of age to carry any concealable firearms, air gun, sword, cane sword, umbrella sword, switch-blade, dart, stiletto, gravity knife, or any knife other than an ordinary pocket knife or any other instrument that could be used for cutting or stabbing in any of the streets, alleys, parks, boulevards, or other public property or schools in Jefferson County or in any dance hall, theater, amusement park, shopping mall, or other private property open to the public except that persons under the age of 18 years may be in possession of a sword, cane sword, umbrella sword, switch-blade, dart, stiletto, gravity knife, or any knife other than an ordinary pocket knife which are used or carried with the permission of the child's parent or adult guardian as a tool of honest work, trade, or business or sport or recreation when

used or carried as equipment for such work, sport, or recreation when actively engaged therein or when traveling to or returning from such work, sport or recreation.

§ 135.06 CONCEALED WEAPONS PROHIBITED IN BUILDINGS OWNED, LEASED OR CONTROLLED BY METRO GOVERNMENT.

(A) No person, including employees of the Metro Government, shall carry a concealed deadly weapon into or on any building or portion of a building owned, leased or controlled by the Metro Government, except as otherwise provided in this section.

(B) Exemptions mandated by state law.

(1) This section shall not apply to buildings or portions of buildings owned, leased or controlled by Metro Government which are used for public housing by private persons, highway rest areas, firing ranges, and private dwellings.

(2) This section shall not apply to sworn officers of the Louisville Metro Police Department, and other law enforcement officers authorized to carry concealed deadly weapons pursuant to KRS 527.020.

(C) The Director of the Department of Public Works shall post signs at the entrances of all Metro Government-owned, leased or controlled building or portions of buildings which shall read as follows:

CARRYING OF CONCEALED DEADLY WEAPONS ON THESE PREMISES IS PROHIBITED BY ORDINANCE OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT.

(D) Violation of this section may result in denial of entry to the building or portion of the building, or an order to leave the building or portion of the building, or, if an employee of the Metro Government, disciplinary measures up to and including dismissal from employment.

(E) Nothing in this Ordinance shall be construed as permitting the carrying of a concealed deadly weapon in violation of KRS 527.020.

~~FIREBOMBS AND EXPLOSIVES~~

~~§ 135.20 DEFINITIONS.~~

~~For the purpose of this subchapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.~~

~~DISPOSE OF.~~ ~~To give, lend, offer for sale, sell, transfer, hurl, throw, drop, or cause to be hurled, thrown, or dropped, or to abandon at any location.~~

~~EXPLOSIVES.~~ ~~Any chemical compound or mixture that has the property of yielding readily to combustion or oxidation on the application of heat, flame, shock, or electricity including but not limited to dynamite, nitroglycerin, trinitrotoluene, ammonium nitrate when combined with other ingredients to form an explosive mixture, blasting caps, and detonators, but not including any fireworks or ammunition for firearms of any black or smokeless propellant powder or primers of any other component of ammunition for firearms.~~

~~**FIRE BOMB.** A breakable container containing a flammable substance or liquid and having a wick or similar device and capable of being ignited. No device commercially manufactured primarily for the purpose of illumination shall be deemed to be a fire bomb.~~

~~**§ 135.21 POSSESSION OF FIREBOMBS PROHIBITED.**~~

~~(A) It shall be unlawful to own, make, possess, or dispose of a firebomb, tear gas bomb, stink bomb, or acid bomb.~~

~~(B) It shall be unlawful to possess any recognizable component part of a firebomb with intent to use the component, material, or substance to set fire to or burn any building, structure, or property.~~

~~(C) This section shall not prohibit the authorized use or possession of any device, substance, or material described herein by a member of the Armed Forces of the United States or any reserve component thereof or of the National Guard of the Commonwealth of Kentucky or by a duly authorized fireman, policeman, or peace officer, acting pursuant to official duty, nor shall the use or possession of such device, substance, or material for the sole purpose of scientific research or education or for lawful burning be prohibited.~~

~~**§ 135.22 MANUFACTURE AND TRANSPORTATION PROHIBITED.**~~

~~It shall be unlawful to possess, manufacture, or transport any explosive with intent to use such explosive to commit a crime or with knowledge that another so intends. Possession of any explosive by any person other than one who may have use of such explosive in the lawful course of his business or activities shall be prima facie evidence of such intent.~~

~~RECORD CHECKS REQUIRED FOR SALE AND TRANSFER OF FIREARMS~~

~~§ 135.35 LEGISLATIVE INTENT AND FINDINGS.~~

~~It is hereby declared and found by the Louisville/Jefferson County Metro Government that:~~

~~(A) The escalation of urban violence involving the use of firearms poses a grave threat to the public safety and in particular to the safety of peace officers and is a substantial law enforcement problem;~~

~~(B) A significant number of firearms are possessed by convicted felons, juveniles, fugitives and others prohibited by state or federal law from owning or possessing those firearms, thereby posing an unnecessary threat to public safety and to peace officers and law enforcement;~~

~~(C) The ease with which any person can acquire firearms other than a rifle or shotgun (including criminals, juveniles without the knowledge or consent of their parents or guardians, narcotics addicts, mental defectives, armed groups who would supplant the functions of duly constituted public authorities, and others whose possession of such weapons is similarly contrary to the public interest) is a significant factor in the prevalence of lawlessness and violent crime in Jefferson County;~~

~~(D) There is a causal relationship between the easy availability of firearms other than a rifle or shotgun and juvenile and youthful criminal behavior, and such firearms should be kept away from emotionally immature, or thrill-bent juveniles and minors prone to criminal behavior;~~

~~(E) Existing procedures do not provide the most efficient and prudent means to enforce federal and state law intended to prevent convicted felons, juveniles, fugitives, and others from receiving these firearms and the risks incident to such inefficient procedures can be addressed without placing an unreasonable burden on persons wishing to lawfully purchase firearms;~~

~~(F) Since the adoption of 18 U.S.C. 921 et seq. in 1968, the distribution of powerful and more deadly "assault weapons" has made the efficient enforcement of federal laws prohibiting the transfer of firearms to felons, juveniles, and fugitives even more imperative;~~

~~(G) The Board of Aldermen having taken testimony from expert witnesses and community leaders during many hours of hearings held by a member of the Board of Aldermen and by the Public Health and Safety Committee, is sufficiently informed on the pertinent issues surrounding this legislative act;~~

~~(H) The provisions set forth hereinafter are an exercise of police powers and "Home Rule" powers granted by the General Assembly, pursuant to KRS 83.410 et seq., to secure the health, safety, and general welfare of the citizens of Jefferson County;~~

~~(I) It is not the purpose of this subchapter to place any undue or unnecessary restrictions or burdens on law-abiding citizens with respect to the acquisition, possession, or use of firearms appropriate to the purpose of hunting, trapshooting, target shooting, personal protection, or any other lawful activity;~~

~~and this subchapter is not intended to eliminate or discourage the private ownership or use of firearms by law-abiding citizens for lawful purposes;~~

~~(J) — It is not the intent of the Metro Government to restrict the legal transfer, possession, and/or ownership of firearms except as is necessary to provide for efficient enforcement of existing federal and state law;~~

~~(K) — It is the intent of the Metro Government to prevent the sale or transfer within Jefferson County by firearms dealers of firearms to persons to whom state or federal law prohibits that transfer of firearms including the following classes of persons:~~

~~(1) — Persons who are under indictment in any court for a crime punishable by imprisonment for a term exceeding one year or who have been formally accused of such crime by a prosecuting attorney;~~

~~(2) — Persons who have been convicted in any court of a crime punishable by imprisonment for a term exceeding one year, whether or not a sentence was actually given;~~

~~(3) — Persons who are a fugitive from justice;~~

~~(4) — Persons who are unlawful users of or addicted to marijuana, or any depressant, stimulant, or narcotic drug, or any controlled substance;~~

~~(5) — Persons who have ever been adjudicated mentally defective or who have ever been committed to a mental institution;~~

~~(6) — Persons who have been discharged from the Armed Forces of the United States under dishonorable conditions;~~

~~(7) — Persons who are an alien illegally in the United States;~~

~~(8) Persons who having been a citizen of the United States, have renounced his/her citizenship;~~

~~(9) Persons under the age of 21 years or, in the case of transfers of rifles and shotguns, persons under the age of 18 years;~~

~~(10) Persons who are not residents of the state where the firearm is sold; and~~

~~(11) It is the further intent of the Metro Government by this subchapter to assist in the enforcement of state and federal law by providing that before a firearm is sold or otherwise transferred within the county by a firearms dealer to a person other than another firearms dealer a records check shall be conducted by the Chief of Police to ascertain, to the extent practicable, whether the proposed transfer of the firearm would violate state or federal law because the proposed transferee is a member of one or more of the classes of persons listed above. It is the intention of the Metro Government to provide that this record search be conducted in a manner which is least restrictive to the right of residents of Jefferson County and Kentucky who are permitted under applicable federal and state law to purchase a firearm to do so.~~

~~§ 135.36 DEFINITIONS.~~

~~For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.~~

~~ANTIQUE FIREARMS.~~

~~(1) — Any firearm (including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignitions system) manufactured in or before 1898;~~

~~(2) — Any replica of any firearm described in subsection (1) of this definition if such replica:~~

~~(a) — Is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition; or~~

~~(b) — Uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in ordinary channels of commercial trade.~~

~~**CHIEF OF POLICE.** The Chief of Louisville Metro Police Department or his or her designee.~~

~~**COLLECTORS ITEM OR RELIC.**~~

~~(1) — A weapon which is determined by the Chief of Police to be of some special interest to collectors by reason of some quality other than is ordinarily associated with firearms;~~

~~(2) — A weapon which is certified by the curator of a municipal, state, or federal museum which exhibits firearms to be a curios or relic of museum interest; or~~

~~(3) — A weapon including a firearm which is determined by the Chief of Police to derive a substantial part of its value from the fact that it is novel, rare, or bizarre, or because of its association with some historical figure, period, or event.~~

~~DESTRUCTIVE DEVICE.~~

- ~~(1) — A bomb,~~
- ~~(2) — Grenade,~~
- ~~(3) — Rocket having a propellant charge of more than four ounces,~~
- ~~(4) — Missile having an explosive or incendiary charge of more than one-quarter ounce,~~
- ~~(5) — Mine,~~
- ~~(6) — Device similar to any of the devices described in the preceding subsections of this definition;~~
- ~~(7) — Any type of weapon (other than a shotgun or a shotgun shell which is generally recognized as particularly suitable for sporting purposes) by whatever name known which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than one-half-inch in diameter; or~~
- ~~(8) — Any combination of parts either designed or intended for use in converting any device into any destructive device described in subsections (1) through (7) of this definition and from which a destructive device may be readily assembled. The term "destructive device" described in subsections (1) through (7) of this definition shall not include any device which is neither designed nor redesigned for use as a weapon; any device, although originally designed for use as a signaling, pyrotechnic, line throwing, safety, or similar device.~~

~~FIREARM.~~ Any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of any

~~explosive; the frame or receiver of any such weapon; any firearm muffler or firearm, a collectors item or relic, or a rifle other than a short barreled rifle or a shotgun (other than a short barreled shotgun).~~

~~**FIREARMS DEALER.** Any importer, manufacturer, or dealer having a license to deal in firearms issued and in effect pursuant to the "Gun Control Action of 1968", 83 STA. 1213, 18 U.S.C. 923, and any amendments thereto or reenactment thereof.~~

~~**PAWNBROKER.** Any person whose business or occupation includes the taking or receiving, by way of pledge or pawn, of any firearm or ammunition as security for the payment or repayment of money.~~

~~**PERSON AND WHOEVER.** Any individual, corporation, company, association, firm, partnership, society, or joint stock company.~~

~~**RIFLE.** A weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.~~

~~**SHORT-BARRELED RIFLE.** A rifle having one or more barrels less than 16 inches length and any weapon made from a rifle (whether by alteration, modification, or otherwise) if such weapon, as modified has an overall length of less than 26 inches.~~

~~**SHORT-BARRELED SHOTGUN.** A shotgun having one or more barrels less than 18 inches in length and any weapon made from a shotgun (whether by~~

alteration, modification, or otherwise) if such weapon as modified has an overall length of less than 26 inches.

~~SHOTGUN.~~ Any weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger.

~~§ 135.37 SALE OR TRANSFER OF FIREARMS; RECORD SEARCH REQUIRED.~~

(A) Except as provided in ~~§ 135.39~~, no firearms dealer shall transfer any firearm to any person until the Chief of Police has conducted a search utilizing "Link", "NCIC", "Local Check," and such other record checks as the Chief of Police may from time to time determine can be efficiently conducted within the time parameters hereby established to determine to the extent practicable whether the transferee is prohibited from receiving or possessing the firearm under federal or state law and whether representations required to be made under federal law on Form 4473 (see below) are in accordance with the information reasonably available to the Chief of Police.

(B) To facilitate this search by the Chief of Police, the firearms dealer shall supply the Chief of Police by personal delivery, certified mail, or by fax transfer with a true and accurate copy of the firearms Transaction Record Form 4473 published by the United States Department of the Treasury-Bureau of Alcohol, Tobacco, and Firearms and containing the information required by 18 U.S.C. 922. Form 4473 at the time of transfer to the Chief of Police shall be filed

~~out in both Sections A and B but shall not be executed by either the proposed transferee or transferor.~~

~~(C) The Chief of Police shall make necessary provisions so that in the ordinary course of business it will be possible to complete the record search and fax back to any firearms dealer with a fax machine the results of the search within 24 hours. The Chief of Police shall in any event, complete the search and communicate by fax back to the firearms dealer in the shortest practicable time. The Chief of Police shall complete the search and communicate with the firearms dealer within five business days after a copy of the Form 4473 is faxed or hand-delivered or within ten business days after a copy of the Form 4473 was received from the firearms dealer by certified mail. The Chief of Police shall further make necessary provision for communicating with firearms dealers who do not have the capability of communicating by fax machine in the most efficient manner possible. A fee of \$3 per search shall be charged by the Chief of Police shall adopt procedures for the collection of this fee.~~

~~(D) If the Chief of Police communicates by fax transfer or other communication to the firearms dealer that the record search required by this subchapter has been completed and that after search of the said records, the Chief of Police knows no information which would render unlawful the sale or other transfer of the firearm, the firearms dealer shall be permitted hereunder to go forward with the sale or transfer of the firearm; provided, however, that nothing in this subchapter is intended to and shall not be construed to render~~

~~lawful any sale or transfer of a firearm which is otherwise unlawful under applicable federal or state law.~~

~~§ 135.38 NOTIFICATION BY CHIEF OF POLICE TO FIREARMS DEALER OF PROPOSED FIREARMS TRANSFEREE DISQUALIFICATION BY RECORD SEARCH.~~

~~If the Chief of Police determines after the record search that the proposed sale or other transfer of the firearm would not comply with federal or state law, then the Chief of Police shall notify the firearms dealer who shall not complete the sale. Any person who is denied the opportunity to purchase a firearm under this subchapter upon request expeditiously shall be given an opportunity to meet with a designee of the Chief of Police with authority to review the matter and to authorize the sale if the reviewing officer determines that the sale would not violate applicable federal and state law. This expeditious review shall be in addition to the formal appeal hearing under § 135.41.~~

~~§ 135.39 FAILURE OF CHIEF OF POLICE TO TIMELY EFFECT RECORD SEARCH.~~

~~If five business days have lapsed from the date the firearms dealer has faxed or hand-delivered the copy of Form 4473 to the Chief of Police or if ten business days have elapsed from the date the Chief of Police has received from the firearms dealers by certified mail the copy of Form 4473 and the firearms dealer has not received a reply from the Chief of Police concerning the results of the record search, then the firearms dealer may consummate the contemplated sale or transfer and in such event the firearms dealer shall send to the Chief of Police by certified mail, hand delivery, or fax transfer a true and accurate copy of the fully executed Form 4473. The Chief of Police shall examine the original~~

~~notice to the Chief of Police bearing the date of such original notice to verify that the requisite time has passed between said notice and the completion of the sale or other transfer.~~

~~§ 135.40 FIREARMS REDEEMED FROM PAWN.~~

~~The record search required by this subchapter must be conducted in the case of firearms redeemed from a pawnbroker by the owner of the firearm. However, a pawnbroker who takes a firearm in pawn, may, in anticipation of the person redeeming the firearm, have the person fill out the Form 4473 at the time the firearm is pawned and may submit the form to the Chief of Police who shall proceed with the record search required hereby. If the firearm is redeemed within 60 days of the time the Chief of Police has communicated to the firearms dealer that the record search has been completed, the pawnbroker may permit the redemption by the person who has placed the firearm in pawn and another record search shall not be required. If more than 60 days has transpired from the date of that communication by the Chief of Police a new record search shall be required.~~

~~§ 135.41 APPEAL FROM DENIAL OF TRANSFER OF FIREARMS.~~

~~(A) Any person desiring an appeal within ten days of a denial, pursuant to any provision of this subchapter, may file an appeal to the office of the Mayor to that office.~~

~~(B) The office of the Mayor shall devise and promulgate such appeal procedures as would promote the legislative intent and objectives if this subchapter.~~

~~(C) The office of the Mayor shall conduct an appeal hearing and issue a specific and written finding as to the appeal either upholding the denial or overturning that decision. The determination of the appeal officer appointed by the Mayor shall be reviewable as provided by law.~~

~~§ 135.42 CIVIL LIABILITY.~~

~~No civil liability to any third person not a party to the firearms transfer shall arise from any action or inaction on the part of any law enforcement agency, specifically the Chief of Police and the office of the Mayor, in connection with either the approval or denial of a transfer.~~

~~§ 135.43 EXEMPTIONS.~~

~~Nothing in this subchapter shall be construed to affect transfers from one firearms dealer to another firearms dealer for bona fide resale in the ordinary course of business, or transfers to official government law enforcement or armed services agencies or transfers by a firearms dealer to any person of any antique firearm or other collectors item or relic or of any rifle other than a short barreled rifle or any shotgun other than a short barreled shotgun.~~

~~§ 135.98 SEVERABILITY.~~

It is the express intent of the Louisville/Jefferson County Metro Government that in the event that any part of this subchapter be deemed by a court of competent jurisdiction to be unconstitutional or invalid, the remaining portions shall continue unaffected to be enforced.

~~§ 135.99 PENALTY.~~

(A) Any person who violates § 135.03 shall be fined not less than \$25 nor more than \$50 for each offense. Any weapon as described in § 135.03 found in the possession of any person convicted under the provisions of that section may be ordered by the court to be confiscated and destroyed.

~~(B) Any person who violates any of the provisions of §§ 135.11 or 135.12 shall be fined not less than \$25 nor more than \$100 or imprisoned not exceeding 50 days, or both.~~

(C) Any person found to have violated the provisions of § 135.04 shall be guilty of misdemeanor and shall be fined an amount not to exceed \$500 or imprisoned for not to exceed 90 days or both for each offense.

~~(D) Any person, firearms dealer, or legally recognized business entity under the laws of Kentucky who shall fail, neglect or refuse to comply with any of the provisions of §§ 135.35 through 135.44 shall:~~

~~(1) Upon first conviction be fined not more than \$500 per firearm and be required to show proof of subsequent compliance;~~

~~(2) Upon second conviction be fined not more than \$1,000 per firearms or incarcerated for not more than one year, or both.~~

SECTION II: This Ordinance shall take effect upon its passage and approval.

Kathleen J. Herron
Metro Council Clerk

Rick Blackwell
President of the Council

Jerry E. Abramson
Mayor

Approval Date

APPROVED AS TO FORM AND LEGALITY:

Irv Maze

Jefferson County Attorney

BY: _____

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